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7 Attorney for Aaron Wade Ferguson

8 **UNITED STATES DISTRICT COURT**
9 **DISTRICT OF NEVADA**

10 UNITED STATES OF AMERICA,
11 Plaintiff,
12 v.
13 AARON WADE FERGUSON,
14 Defendant.
15

Case No. 2:20-mj-00056-VCF

ORDER **TO CONTINUE**
PRELIMINARY HEARING
(Fourth Request)

16 IT IS HEREBY STIPULATED AND AGREED, by and between
17 Nicholas A. Trutanich, United States Attorney, and Bianca R. Pucci , Assistant United
18 States Attorney, counsel for the United States of America, and Rene L. Valladares,
19 Federal Public Defender, and Rebecca A. Levy, Assistant Federal Public Defender, counsel
20 for Aaron Wade Ferguson, that the Preliminary Hearing currently scheduled on Tuesday,
21 August 10, 2020 at 4:00 p.m., be vacated and continued to a date and time convenient to the
22 Court, however no sooner than thirty (30) days.

23 This Stipulation is entered into for the following reasons:
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1 1. On March 11, 2020, the World Health Organization officially classified
2 COVID-19 a pandemic.¹ Governor Steve Sisolak declared a State of Emergency in Nevada on
3 March 12, 2020. On March 16, 2020, the CDC recommended that all in-person events
4 consisting of 10 or more people be postponed or cancelled throughout the United States.²

5 2. In response to the COVID-19 pandemic, this Court issued a series of Temporary
6 General Orders changing how the Court Operates to do its part to contain the spread of the
7 virus. Amended Temporary General Order 2020-03. In Temporary General Order 2020-03, the
8 Court continued all jury trials until April 10, 2020, pending further order. *Id.* Then, on
9 April 9, 2020, this Court amended Temporary General Order 2020-03 stating that “[t]he Court
10 has determined that jury trials must be further postponed in light of the COVID-19 pandemic,
11 and each presiding judge will address any needed continuance of trial in their individual cases.”
12 Amended Temporary General Order 2020-03. General Order 2020-03 accordingly continued
13 all civil and criminal trials until April 10, 2020, pending further order of the Court and found
14 that “the ends of justice are best served by ordering the continuances, which outweighs the best
15 interests of the public and any defendant’s right to a speedy trial under 18 U.S.C. §
16 3161(h)(7)(A)” due to COVID-19.

17 3. As of April 27, 2020, Nevada has 4,690 confirmed COVID-19 cases and 219
18 deaths.³ Also, as of April 27, 2020, the new strain of coronavirus which causes COVID-19,
19 has infected over 3 million people, leading to at least 210,611 deaths worldwide.⁴
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21 ¹ *WHO Characterizes COVID-19 as a Pandemic*, World Health Organization (Mar.
22 11, 2020) at <https://www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19---11-march-2020>.

23 ² Center for Disease Control: COVID-19 <https://www.cdc.gov/coronavirus/2019-ncov/community/large-events/> (last visited Mar. 24, 2020).

24 ³ <https://nvhealthresponse.nv.gov/> (last visited Apr. 27, 2020).

25 ⁴ *Coronavirus Resource Center*, John Hopkins University (last visited Apr. 27, 2020),
26 <https://coronavirus.jhu.edu/map.html>.

1 4. In light of this pandemic, the growing number of infected individuals in the State
2 of Nevada and worldwide, the CDC's recommendations, and this Court's Amended Temporary
3 General Order 2020-03, the parties to seek to continue the deadlines in this matter. Further,
4 counsel for the defendant needs additional time to review the discovery and conduct
5 investigation in this case in order to determine whether there are any issues that must be litigated
6 prior to the case proceeding to preliminary hearing or otherwise.

7 5. The Defendant is in custody and does not object to the continuance.

8 6. The parties agree to the continuance.

9 7. This continuance is not sought for purposes of delay, but to account for the
10 necessary social-distancing in light of the COVID-2019 public health emergency, to allow the
11 defense adequate time to prepare following the resolution of this public health emergency, to
12 allow counsel for defendant sufficient time within which to be able to effectively complete
13 investigation of the discovery materials provided.

14 8. Federal Rule of Criminal Procedure 5.1(d) provides that a magistrate judge may
15 extend the time limits in Rule 5.1(c) with the defendant's consent and upon a showing of good
16 cause taking into account the public interest in the prompt disposition of criminal cases.
17 Because of the COVID-19 pandemic, and the resulting various closures and resource
18 limitations, good cause exists to allow the defense more time to prepare for the preliminary
19 hearing.

20 9. Additionally, denial of this request for continuance could result in a miscarriage
21 of justice. The additional time requested by this Stipulation is excludable in computing the time
22 within which the trial herein must commence pursuant to the Speedy Trial Act, Title 18, United
23 States Code, Section 3161(b) and (h)(7)(A), considering the factors under Title 18, United
24 States Code, Section 3161(h)(7)(B)(i), (iv).

1 This is the fourth request for continuance filed herein.

2 ATED this 3rd day of August 2020.

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4 RENE L. VALLADARES
Federal Public Defender

NICHOLAS A. TRUTANICH
United States Attorney

5
6 */s/ Rebecca A. Levy*
By _____

7 REBECCA A. LEVY
8 Assistant Federal Public Defender

/s/ Bianca R. Pucci
By _____

9 BIANCA R. PUCCI
10 Assistant United States Attorney
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1 UNITED STATES DISTRICT COURT
2 DISTRICT OF NEVADA

3 UNITED STATES OF AMERICA,
4 Plaintiff,

5 v.

6 AARON WADE FERGUSON,
7 Defendant.
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Case No. 2:20-mj-00056-VCF

FINDINGS OF FACT AND ORDER

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10 **FINDINGS OF FACT**

11 Based on the pending Stipulation between the defense and the government, and good
12 cause appearing therefore, the Court hereby finds that:

13 1. To account for the necessary social-distancing in light of the COVID-2019
14 public health emergency and with the defendant's consent, the preliminary hearing in this case
15 should be continued for good cause. The additional time requested herein is also sought to
16 permit defendant time to review discovery and conduct investigation in this case in order to
17 determine whether there are any issues that must be litigated prior to the case proceeding to
18 preliminary hearing or otherwise.

19 2. The parties agree to this continuance.

20 3. The defendant is incarcerated but does not object to the continuance.

21 4. The additional time requested herein is not sought for purposes of delay, but
22 merely to allow counsel for the defendant sufficient time within which to be able to effective
23 and complete investigation of the discovery materials that will be provided by the government.

24 5. Denial of this request could result in a miscarriage of justice, and the ends of
25 justice served by granting this request outweigh the best interest of the public and the defendant
26 in a speedy trial.

6. The additional time requested by this stipulation is excludable in computing the time within which the indictment must be filed pursuant to Federal Rules of Criminal Procedure 5.1(d), the Speedy Trial Act, Title 18, United States Code, Section 3161(b), and considering the factors under Title 18, United States Code, Section 3161(h)(7)(A) and (B)(i) and (iv).

ORDER

IT IS THERFORE ORDERED that the Preliminary Hearing currently scheduled on Monday, August 10, 2020 at the hour of 4:00 p.m., be vacated and continued to September 8, 2020 at 3:00 PM in LV Courtroom 3D before Magistrate Judge Cam Ferencbach.

DATED this 3rd day of August 2020.

Car Rocker

UNITED STATES MAGISTRATE JUDGE